IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2742 OF 2006

S. S. Pandey. ...Petitioner.

Vs.

M/s.Alumilite Pvt. Ltd. & Anr. ...Respondents.

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Mr. J.K. Mistry with T. R. Yadav for the Petitioner.
Mr.A. R. Bamne for the Respondents.
Mr.K. R. Belosey, AGP for the State.

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CORAM : DR.D.Y.CHANDRACHUD, J.

November 13, 2006.

P.C.

On a Reference by the Deputy Commissioner of Labour under Section 10 of the Industrial Disputes Act, 1947, the 10th Labour Court passed an award on 4th March 2006. The Labour Court held that it had no territorial jurisdiction over the reference. The Labour Court also held that the Petitioner herein was employed in a managerial capacity and was not a workman. On behalf of the Petitioner it has been submitted that having regard to the finding that the Labour Court did not have territorial jurisdiction over the matter, the Petitioner is ready and willing to have the order of reference amended. According to the Labour Court, the

Labour Court at Thane would have jurisdiction since the Petitioner was employed at Wagle Industrial Estate, Thane. In the circumstances, leave is granted to the Petitioner to amend the petition so as to implead the State of Maharashtra as a party Respondent. Amendment to be carried out forthwith. Re-verification is dispensed with.

Having regard to the finding of the Labour Court on the question of territorial jurisdiction, which is accepted by the Petitioner, the Deputy Commissioner of Labour is directed to amend the terms of reference so as to provide for adjudication by the Labour Court at Thane. A formal order in that behalf shall be issued within a period of four weeks from today. Upon the order of reference being so amended, the papers and proceedings shall be transferred from the 10th Labour Court at Mumbai to the Labour Court at Thane in terms of the amended terms of reference. The Labour Court at Thane shall dispose of the reference in the light of the evidence already recorded. In the event that the parties move the Labour Court for adducing additional evidence, the Labour Court shall deal with such an application in accordance with law. All the rights and contentions of the parties on merits including as

to whether the Petitioner is a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 are kept open to be adjudicated upon by the Labour Court at Thane after the reference is amended.

Counsel appearing on behalf of the employer has not objected to the disposal of the petition with the aforesaid directions. The petition is accordingly disposed of in terms of the aforesaid directions. There shall be no order as to costs.

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